

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

JASON KESSLER
and NATIONAL SOCIALIST
MOVEMENT and TRADITIONALIST
WORKER'S PARTY,

Plaintiff,

v.

Civil Action No. **3:18CV00107**

CITY OF CHARLOTTESVILLE, VIRGINIA,
AL THOMAS; BECKY
CRANNIS-CURL,

Defendants.

MOTIONS TO DISMISS

Comes now Defendant, the City of Charlottesville, Virginia (the "City"), by counsel, and moves the Court pursuant to Rule 12(b)(1) F.R.C.P. to dismiss the Amended Complaint by National Socialist Movement ("NSM") and Traditionalist Worker's Party ("TWP") since they lack standing under Article III of the U.S. Constitution necessary to afford the Court subject matter jurisdiction, and further pursuant to Rule 12(b)(6) F.R.C.P. moves to dismiss all Plaintiffs' Amended Complaint against the City since Plaintiffs fail to state a plausible claim under *Monell v. Dep't of Social Services*, 436 U.S. 658, 690-691 (1978) of a First or Fourteenth Amendment violation attributable to the City. Further, the Amended Complaint must be dismissed since it fails to allege against the City a municipal "policy or custom" established by the City individual with final policy making authority under Virginia law.

A brief in support of these Motions is filed this date.

CITY OF CHARLOTTESVILLE, VIRGINIA
By Counsel

s/Richard H. Milnor

Richard H. Milnor, Esquire (VSB #14177)

John W. Zunka, Esquire (VSB #14368)

Zunka, Milnor & Carter, Ltd.

414 Park Street

P O Box 1567

Charlottesville VA 22902

Telephone: (434) 977-0191

Facsimile: (434) 977-0198

rmilnor@zmc-law.com

Counsel for the City of Charlottesville

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of February, 2019, I electronically filed the foregoing Consent Motion with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

s/Richard H. Milnor